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Docket 82070RRS
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Martin A. Parker, et al

USING DIGITAL OBJECTS
ORGANIZED ACCORDING TO A
HISTOGRAM TIMELINE

Serial No. 09/863,856

Filed May 23, 2001

Mail Stop APPEAL BRIEF-PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA. 22313-1450

Group Art Unit: 2173

Examiner: Cao H. Nguyen

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Jeanette Kramarz

Jeanette Kramarz

April 22, 2005

Date

Sir:

APPEAL BRIEF TRANSMITTAL

Enclosed herewith in triplicate is Appellants' Appeal Brief for the above-identified application.

The Commissioner is hereby authorized to charge the Appeal Brief filing fee to Eastman Kodak Company Deposit Account 05-0225. **A duplicate copy of this letter is enclosed.**

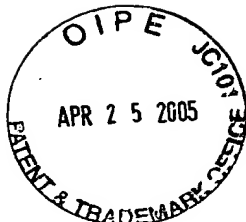
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Enclosures



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APPEAL BRIEF PURSUANT TO 37 C.F.R. 41.37 and 35 U.S.C. 134

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APPELLANTS' BRIEF ON APPEAL

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's Final Rejection of all pending claims 1-17 that were set forth in the Office Action mailed February 16, 2005.

A timely Notice of Appeal was filed February 24, 2005.

Real Party in Interest

The real party in interest is Eastman Kodak Company, assignee of the entire interest of each and every inventor.

Related Appeals and Interferences

No appeals or interferences are known which will directly affect, be directly affected by, or have bearing on the Board's decision in the pending appeal.

Status of the Claims

Claims 1-17 are pending and all claims stand rejected. Appendix I provides a clean, double-spaced copy of the claims on appeal.

Status of Amendments

No amendments have been made to the claims.

Summary of Claimed Subject Matter

Generally, the claims of the invention are directed to a method for organizing visual digital objects and/or multimedia objects which can, in certain aspects include visual and audio objects and, for selecting one or more of such visual digital objects or multimedia objects for viewing comprising the steps of:

a) developing a histogram timeline which identifies a number of visual digital objects organized according to predetermined time periods (as shown in FIGS. 3A and 6A, which are described at page 6, lines 22-26, as shown in Fig. 3B which is described at page 8, lines 5-10, and as also shown and described in FIG. 4 which is described at page 9, lines 19-29) and providing thumbnail representations thereof (as shown in FIGS. 3A which is described on page 7, lines 4-6 and as shown in Fig. 3B which is described at page 9, lines 11-16);

b) selecting a portion of the histogram timeline (as shown in FIG. 3A which is described at page 6, lines 31–32 and as also shown in FIGS. 3B and 6B–6F which are described at page 8, lines 5–32 and at page 9, lines 1–18) for viewing such thumbnail representations of visual digital objects corresponding to such selected portion (as shown in FIG. 3A which is described at page 6, line 32, and page 7, lines 1–14 and as is also shown in Figs 3B and 6B–6F which are described at page 8, lines 5–32 and at page 9, lines 1–18); and

c) determining if one or more of the viewed such thumbnail representations is of interest (as shown in FIG. 3A which is described at page 7, lines 28–32 and as is also shown in Fig. 3B which is described at page 9, lines 15–19) and then viewing the corresponding digital visual object(s) (as shown in FIG. 3A and described at page 7, lines 28–32 and as further shown in Figs. 3B, 6B, 6C, 6F and 6G and described at page 6, lines 31–32, page 7, lines 12, page 8 lines 1–32, and page 9, lines 1–30).). The invention is further directed to a computer storage medium having instructions stored therein for causing a computer to perform such a method.

In other aspects of the invention are directed to a method for organizing digital multimedia objects and, for selecting one or more of such digital multimedia objects for viewing comprising the steps of:

a) developing a histogram timeline which identifies a number of visual digital objects organized according to predetermined time periods (as shown in FIGS. 3A and 6A, which are described at page 6, lines 22–26, as shown in Fig. 3B which is described at page 8, lines 5–10, and as also shown and described in FIG. 4 which is described at page 9, lines 19–29) and providing thumbnail representations thereof (as shown in FIGS. 3A which is described on page 7, lines 4–6 and as shown in Fig. 3B which is described at page 9, lines 11–16);

b) selecting a portion of the histogram timeline (as shown in FIG. 3A which is described at page 6, lines 31–32 and as also shown in FIGS. 3B and 6B–6F which are described at page 8, lines 5–32 and at page 9, lines 1–18) for viewing such thumbnail representations of visual digital objects corresponding to such selected portion (as shown in FIG. 3A which is described at page 6, line 32, and page 7, lines 1–14 and as is also shown in Figs 3B and 6B–6F which are described at page 8, lines 5–32 and at page 9, lines 1–18); and

c) repeating step b) until it is determined which representations are of interest and then viewing or processing the corresponding digital multimedia objects. (as shown in Fig. 3B and described at page 9, lines 11–18).

In still other aspects of the invention, viewable histogram timeline, is provided. The viewable histogram timeline comprises a) a histogram timeline which identifies a number of visual or multimedia digital objects organized according to predetermined time periods (as shown in FIGS. 3A and 6A, which are described at page 6, lines 22-26 and as also shown and described in FIG. 3B which is described at page 9, lines 19–29); and b) representations corresponding to portions of the histogram timeline which are actuable by a viewer selecting such portions to view such representations (as shown in Figs. 3A, 3B, 6B, 6C, 6F and 6G and described at page 6, lines 31–32, page 7, lines 12, page 8 lines 1–32, and page 9, lines 1–30).

The generation of such histogram timelines advantageously facilitates the representation of a collection of multimedia objects to a user and facilitates the interaction and selection of the objects. Among other uses, this makes it easy and convenient to share and view such digital objects.

Grounds for Rejection to be Reviewed on Appeal

The only issue for review by the Board of Patent Appeals and Interferences is the rejection of claims 1–17 under 35 U.S.C. §103 over Petelycky et al. (U.S. 6,204, 840) in view of Yang et al. (U.S. 6,301,586)

Arguments

In order to establish a *prima facie* case of obviousness, the Patent Office must show each of the following: 1) the prior art reference or combination of references must teach or suggest all the limitations of the claims (*In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q 494, 496 (C.C.P.A. 1970)); 2) the prior art relied upon must contain some suggestion or motivation for the skilled artisan to modify a reference or combine references (*In re Fine*, 837 F.2d, 1071, 1074, 5 U.S.P.Q.2d 1596,1598 (Fed. Cir. 1988)); and 3) the proposed modification of the prior art must have had a reasonable expectation of success as determined from the viewpoint of a skilled artisan at the time of the invention, without use of hindsight (*Amgen, Inc. v. Chugai Pharm. Co.*, 927 F.2d 1200, 1209, 18

U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1991)). Teachings and suggestions must come from the prior art, and can not be taken from Applicants' disclosure (*In re Vaeck*, 947 F.2d 488,493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991)).

The Patent Office has failed to establish a *prima facie* case of obviousness against Appellants claimed invention as set forth in any of claims 1-17 because the Patent Office has failed to show any reference or combination of references that teaches or suggests all the limitations of the claims. Further, the Patent Office has failed to establish any motivation to modify or combine the teachings, and in fact, it will be shown that the references teach against such a combination.

I. Claims 1-5, and 17

A. Claim 1

The cited references fail to teach or suggest all of the limitations of claim 1 for the following reasons:

1. The cited combination fails to describe a histogram timeline

In the Final Rejection of February 16, 2004, claim 1 is rejected on the following grounds:

Regarding claim 1, Petelycky discloses a method for organizing visual digital objects and for selecting one or more of such visual digital objects for viewing, comprising the steps of: a) developing a histogram timeline which identifies a number of visual digital objects organized according to predetermined time periods and providing thumbnail representations thereof (see column 3, lines 1 - 56).

The Appellants respectfully submit that they cannot find any support for the contention that Petelycky et al. disclose either a histogram or a timeline. As an initial matter, the Appellants note a simple electronic word search of the term "histogram" indicates that this term does not appear anywhere in the Petelycky et al. reference. Further, as will be discussed in greater detail below, Petelycky et al. explicitly teaches away from timeline based organization systems. Specifically, the title and each of the independent claims of Petelycky et al. disclose and claim a non-timeline and a non-linear approach to organizing multimedia objects. Accordingly, the combination cited in the Final Rejection fails for this reason alone.

Instead, what is described in Petelycky et al. is a method for manually organizing video and still image content into a sequence for the purpose of generating an edited video presentation. Petelycky et al. describes, generally, a common graphic metaphor used in some video editing systems for providing gross organization of such video and still image content. Specifically, in Petelycky et al. each different piece of content (i.e. video clip or still image) to be included into a video presentation is represented by a fixed sized single pictorial identifier representing the content of the clip. The pictorial identifiers are manually arranged in a sequential order on a storyline to indicate a desired sequence thereof for use in forming a video stream such as a home video. Because each clip is represented by a fixed size single pictorial identifier, a user can more easily observe the arrangement of the different image content represented by the pictorial identifiers. This allows a user to rapidly organize a sequence of different video clips and still images. This is described generally at Cols. 11 and 12 of Petelycky et al. These sections of Petelycky et al. are cited extensively at pages 5–7 of the Final Rejection in support of the proposition that Petelycky et al. shows a histogram timeline.

However, it will be appreciated that a manually arranged sequence of pictorial identifiers representing still and video image content does not provide a histogram timeline as claimed. The words “histogram timeline” have a meaning that is being ignored in the Final Rejection. Specifically, it is submitted that one of ordinary skill in the art understands that the word histogram is defined generally as a representation of a frequency distribution by means of rectangles whose widths represent class intervals and whose areas are proportional to the corresponding frequencies. For example, see *Webster's Ninth New Collegiate Dictionary*, Page 573, (1990). Accord, Freund & Williams *Dictionary/Outline of Basic Statistics* (1991). Figs. 6A–6G of the present application illustrate the use of various arrangements of histogram timelines each having a set of rectangular bars arranged along a timeline with the rectangular bars each having horizontal or width dimension representing a class interval of a period of time and which also have a vertical axis that varies proportionately with the frequency of digital objects within the period of time associated with the horizontal axis of the rectangle so that the area of each rectangular bar formed provides a proportional

indication of the frequency of digital content within a period of time along the timeline. Nothing of this type is described or shown in the drawings of Petelycky et al.

Yang et al. also fails to teach or suggest the use of a histogram timeline. Yang et al. provides a system for organizing multimedia objects through the use of album metaphors that can be further organized into collections of albums. The word histogram does not appear anywhere in Yang et al. nor is a histogram shown or described.

2. The cited combination fails to describe any structure that “identifies a number of visual digital objects organized according to predetermined time periods and providing thumbnail representations thereof, as suggested in the Final Rejection.

Petelycky et al. does not describe any structure that identifies a number of visual digital objects that are organized according to predetermined time periods. Petelycky et al. instead shows the manual organization of digital objects in sequence but without a structure that meets this limitation.

3. The cited combination fails to describe “selecting a portion of the histogram timeline for viewing such thumbnail representations of visual digital objects corresponding to such selected portion”.

The Final Rejection of February 12, 2005 admits that Petelycky et al. fails to explicitly teach selecting a portion of the histogram timeline for viewing thumbnail representations of visual digital objects corresponding to such selected portion. However, the Final Rejection contends that Yang et al. discloses selecting a portion of the histogram timeline for viewing such thumbnail representations of visual digital objects corresponding to such a selected portion. In support of this, the office action cites column 22, lines 8-60 of Yang et al.

However, column 22, lines 6-60 of Yang et al. are part of a section that begins at column 21, lines 47 and continues to column 22, line 60 which states as follows:

[3.3.3 "Spreadsheet"]

The spreadsheet view is shown in FIG. 27. Media files can also be viewed in the form of a database table. Each column of the table represents one of the properties of the associated media file. Each row of the table represents one record that stores all

properties such as index, file type, format, size, date, time, file path and name, are automatically generated when the album is created, some of the properties such as description (comments) and keyword should be specified by the album creator. Some of the spreadsheet cells can be updated or edited like any standard spreadsheet editing. Viewing media files in database tables is more efficient in terms of speed and memory consumption.

There are both vertical and horizontal scroll bars. Vertical bar will be enabled whenever there is not enough space for displaying more records. Horizontal bar will be enabled whenever there is not enough space displaying more columns. The users can scroll up and down or left to right to view more records or fields.

In the spreadsheet view, there are two kinds of data fields: basic common fields and customized fields for each collection of albums. All of the albums have the same basic common field name. The basic common fields are: ImageID, VolumeID, Driver Letter, Volume Label, Label, Name, Description, Keyword, File Path, File Name, File Format, Date/Time Created, Date/Time Modified, Image Width, Image Height, Image Color Depth, and other camera related information.

When the user highlights or selects a particular record, the corresponding thumbnail image will show up on the upper left corner of the spreadsheet, as illustrated.

To summarize, a user interface for displaying a database of multimedia objects including at least an image component and a non-image component with each component corresponding to a field in a database record for the multimedia component includes a display of at least a portion of a table having entries for multimedia objects in the database extending in a first direction and individual fields within each database record extending in a second direction perpendicular to the first direction, a cursor display of a mouse cursor superimposed over one of the tabular entries in the table display, and a pop-up display of a thumbnail of an image component of a multimedia object which pops-up when the mouse cursor is superimposed over the corresponding image component of the multimedia object.

The spreadsheet can be sorted by single clicking any of the columns. In addition, the user can change the column width by dragging the boundary on the right side of the column heading until the column is the width you want. The user can change the height of the row or record by dragging the boundary below the row heading until the row is the height you want.

The user can perform in cell editing for some of the editable columns such as description. As shown in FIG. 28, by clicking the right mouse button, the user can pop up the edit menu for performing editing function such as undo, copy, delete, paste, and

select all. The user can directly work in the cell to type in the cell with up to maximum 256 characters. In order to update all of the updated data in the database, the user has to move the mouse cursor to next record. Otherwise, the previous edited data won't get saved in the database.

The global text annotation is designed to allow the user to change all of the text in the description filed. For example, the user may not want to type in detail description for each of the photos he/she took during the Paris vacation trip. Instead, as shown in FIG. 29, the user globally annotated the created photo album by Paris Trip. The user can also select one or several records for text annotation.

The user can select any of the image files and record one audio annotation file for the selected image, as shown in FIG. 30. The file format of the audio annotation file is "WAV", a standard windows audio file format. All of the audio annotation files are stored in the "Annotations" sub-directory.

FIG. 31 shows how the user can add one or more keywords to the selected image by either selecting a keyword from a list of the existing keywords or by typing in a new keyword.

Accordingly, what is actually described in the cited portions of Yang et al. is a database of alphanumeric records with each record being associated with image content. A user can select content from among the records by moving a mouse to guide a cursor through the tables of the spreadsheet and clicking on a record to select the content.

Thus, the cited portion of Yang et al. also fails to show a histogram. An electronic word search of Yang et al. also reveals that Yang et al. fails to use the word histogram. Further, Yang et al. teaches away from the use of a histogram in the cited portion as it clearly calls for the use of a spreadsheet metaphor and in which each multimedia clip is individually in the spreadsheet as a data record. The spreadsheet of Yang et al. provides no thumbnail representation of a frequency of visual digital objects organized according to predetermined time periods as is called for by the use of the term histogram timeline. Further, there is no portion of the spreadsheet record of Yang et al. that can be selected for viewing such thumbnail representations of visual digital objects. Instead, each record of Yang et al. is associated with only one visual digital object.

4. The stated motivation for the combination teaches away from what is claimed.

The Appellants respectfully submit that the Final Rejection fails to provide a valid motivation for the cited combination. As an initial matter, the Appellants respectfully submit that the stated motivation for the combination is unclear. The Appellants have requested clarification and the request was ignored in the Final Rejection. To the extent that the Appellants understand the cited motivation, the Appellants submit that the cited motivation is not consistent with the function claimed by the present invention and that the combinations teach apart as they are contrary to the teachings of Petelycky et al.

The Final Rejection repeats the motivation cited in the First Office Action, namely that:

"it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide selecting a portion of the histogram timeline for viewing such thumbnail representations of visual digital objects as taught by Yang et al. to produce a multimedia output file from the storyline strip of Petelycky et al. in order to enable the user for viewable or previewing histogram of the multimedia digital objects in digital object transition positions."

Such a motivation does not relate to what is claimed. Specifically, the present invention does not claim the creation of a multi-media output file, or generating a histogram of "multi-media digital objects in digital object transitions". Further, the claims do not mention video transitions which are video editing feature that provides a graphical indication when a video stream transitions from one clip to another clip.

Further, the motivation for the combination must come from the references and not from hindsight, yet the Examiner has failed to identify what portion of the references suggest such a motivation.

5. The Petelycky et al. reference teaches away from the use of a timeline.

The Appellants further respectfully note that the motivation appears to be inconsistent with the Petelycky et al. reference which clearly states in the title that it is a: "NON-TIMELINE, NON-LINEAR DIGITAL MULTIMEDIA COMPOSITION METHOD AND SYSTEM". The Appellants also note that Petelycky et al. also claims and discloses "non-timeline, non-frame" approaches to sequentially organizing individual pieces of image content for use in combining

the image content. Thus, not only does Petelycky et al. fail to describe a “histrogram timeline” but Petelycky et al. clearly teaches away from the use of a timeline.

Instead, what is described in Petelycky et al. at col. 3, lines 1–56, is a method for composing a sequence of individual images, video or audio segments in sequential arrangement with transitions therebetween. Specifically, these lines state as follows:

The present composition system includes system software control functions that are highly user interactive and respond to user commands for selecting audio, video and multimedia objects from source materials, displaying these dynamically in a main viewing area, performing one or more composition tasks, applying such composition tasks dynamically to the object, previewing the composited object and placing the finished video, audio and related multimedia source material sequences in a production storyline facility for real-time preview of the sequence composition, and for production of the completed sequence.

The composition system and method of the present invention treat digital source segments, including still frame images, video, audio, three dimensional objects, animation and related multimedia source materials as "digital objects" and allow for both temporal and accurate display. Furthermore, the composition system and method of the present invention allow for application of special effects "filters" that can be applied equally and dynamically to all digital objects in the composition process. Audio special effects filters can be applied directly to an audio file which in turn can be applied to an animated three-dimensional video object such that it causes the object to react or modify its motion in a manner consistent with an audio (e.g., music) source file.

The present composition system and method do not rely on representing sequences as multiple static pictorial frames. Instead, the present composition system and method directly parallels the techniques employed in traditional physical film-based composition where editors view and work directly with temporal video and audio "objects" or film sequences that can be played back and forth, viewed, edited and enhanced in a dynamic, real time composing environment. Digital objects can be placed on the storyline in any desired order and can be dynamically manipulated and previewed by the operator at any time. Each digital object can be associated with a pictorial identifier. The identifier for the object can be drawn from any desired pictorial image source. In the case of video segments, the identifier representing a given object can be a single video frame selected either automatically by the system or manually by the operator. The present invention does

not use separate frames or pictorial labels to denote the start and endpoint of given source material segments or sequences in a timeline as is characteristic of conventional, timeline-based digital composition systems and methods.

In the case of audio sources, representative object images are selected by the user from a library of representative audio images or automatically generated based on an analysis of the segment's audio wave patterns. Source materials and compositions referenced in the system's source material storage libraries can be grouped and sorted according to user specified criteria. Users can search for source materials stored on both local storage media as well as on-line and network media storage devices according to a wide range of user defined criteria and object properties.

See also,

*Col. 7, lines 10–13 “Referring now to FIG. 1A, a computer system 10 for executing a **non-timeline, non-linear** digital multimedia composition program in accordance with the present invention to produce multimedia compositions is shown...”*

*Col. 9, lines 15-19. “The **non-timeline, non-linear** multimedia composition program executed by computer system 10 overcomes the disadvantages associated with the above described prior art composition program and will now be described with reference to FIGS. 1D to 5E.”*

*Claim 1. “A method for **non-timeline, non-linear** digital multimedia composition...”*

*Claim 5. “A system for **non-timeline non-linear** digital multimedia composition...”*

*Claim 9. A computer readable media encoded with a computer program for creating **non-timeline, non-linear** digital multimedia compositions ...” (emphasis supplied)??:*

Thus, nothing in Petelycky et al. describes the process of developing a histogram timeline and Petelycky et al. explicitly teaches a NON-TIMELINE and NON-LINEAR approach which, teaches away from the use of a histogram timeline as claimed.

Accordingly, for the reasons stated above, the Appellants respectfully submit that claim 1 is believed to be in a condition for allowance. Further, claims 2, 3, 17 and all claims that depend therefrom are believed to be in a condition for allowance for the same reasons stated with respect to claim 1.

II. Claims 6 – 12

A. Claim 6, 9 and 10

As stated in the Final Rejection, claims 6 and 7 stand rejected on the following grounds “As claims 6 and 7 are analyzed as previously discussed with respected [sic] to claim 1 and 3 above.” Accordingly, the Appellants respectfully submit that, as an initial matter, claim 6 all claims that depends upon claim 6 are allowable over the ground for rejection cited with respect to claim 1, generally for the reasons stated above with respect to claim 1.

Further, the Appellants respectfully submit that claim 6 is further allowable over the cited combination in that neither Petelycky et al. nor Yang et al. describe the steps of:

- b) selecting a portion of the histogram timeline for viewing representations of multimedia objects corresponding to such selected portion; and
- c) repeating step b) until it is determined which representations are of interest and then viewing or processing the corresponding multimedia objects.

Because neither Petelycky et al. nor Yang et al. describe a histogram timeline, neither can suggest either method step b or method step c.

B. Claim 7

Claim 7 depends from claim 6 and further claims that the histogram timeline is constructed by:

- i. accessing a plurality of digital multimedia objects stored together or in distributed fashion and forming a database;
- ii. establishing the date of origination of each digital multimedia object from file header data or object metadata; and
- iii. determining the number of digital multimedia objects in the database that originated at each date to form the histogram timeline.

For the reasons stated above, the Appellants respectfully note that there is nothing of this type in Petelycky et al. nor in Yang et al.

C. Claim 8

Claim 8 depends from claim 6 and further includes the step of rendering the histogram timeline so the horizontal axis being time and the vertical axis is the number of digital multimedia objects, with the timeline length running from the

earliest to the latest dates of the digital multimedia objects in the database and the duration (width) of the histogram timeline bins being responsive to the resolution and size of the display.

The Final Rejection contends that “Yang et al. discloses further including rendering the histogram timeline so the horizontal axis being time and the vertical axis is the number of digital multimedia objects with the timeline length running from the earliest to the latest dates of the digital multimedia objects in the database and the duration (width) of the histogram timeline bins being responsive to the resolution and the size of the display (See Col. 17, lines 11-65).

However, what is described in Col. 17, lines 11-48 is a data layout for a printing template wizard. The print layout screen allows a user to select templates, fonts, and other information for use in printing components of a multimedia object which includes text and an image. Lines 48–65 describe a dialog box that “allows a user to pick some limited graphical enhancements to produce a pleasing colorful album.” Col. 17, lines 48–50.

It will be appreciated from this, that this section of Yang et al. does not teach or suggest rendering a histogram timeline so the horizontal axis being time and the vertical axis is the number of digital multimedia objects, with the timeline length running from the earliest to the latest dates of the digital multimedia objects in the database and the duration (width) of the histogram timeline bins being responsive to the resolution and size of the display as is claimed.

D. Claim 11

Claim 11 depends from claim 6, and further claims that the thumbnail and iconic regions are grouped according to the events to which they relate. Yang et al. is said to teach or suggest this limitation at Col. 25, lines 39–62. These lines however, present claim 1 of Yang et al. and do not use the word event nor do they suggest organizing content based upon the association of the content to an event. Instead, the Final Rejection contends that merely presenting images with a concomitant display of time and date of origination information as is shown in FIGS. 7–11 of Yang et al. somehow shows images are organized by an event. However, nothing in the relied upon passages of Yang et al. or the description of FIGS. 7-11 suggests this. Instead Yang et al. describes albums that are provided

by the operator of the database or framed by the user of the database. The organization thereof is controlled by the user.

III. Claims 12 – 16

Claim 12 has been rejected on grounds that “claims 12-17 are analyzed as previously discussed with respect to claims 1-3 and 8-11 above.”

Accordingly, the Appellants respectfully submit that claims 12-16 are allowable for the reasons stated above with respect to claims 1-3 and 8-11 above. Further, the Appellants respectfully submit that claim 12 and all claims that depend therefrom, are further allowable for the following reasons.

Claim 12 claims: a viewable histogram timeline, comprising:

- a) the histogram timeline which identifies a number of visual or multimedia digital objects organized according to predetermined time periods; and
- b) representations corresponding to portions of the histogram timeline which are actuable by a viewer selecting such portions to view such representations.

However, neither Petelycky et al. nor Yang et al. provide a histogram timeline, or a histogram timeline that provides representations corresponding to portions of the histogram timeline which are actuable by a viewer selecting such portions to view such representations.

Accordingly, claim 12, and all claims that depend therefrom are believed to be in a condition for allowance.

Summary

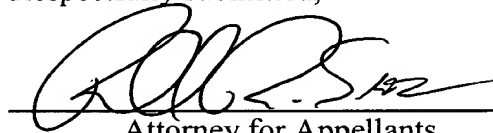
The various claimed features of the present invention provide a new, novel and non-obvious histogram timeline for assisting a user of a database of digital objects such as multi-media, audio and video objects to determine the frequency of digital objects in particular portions of a timeline and to enable access to these digital objects by activating a portion of the histogram timeline. The references cited in the Final Rejection include prior art that specifically disclaims and thereby teaches away from the use of a timeline (Petelycky et al.) and that provides an album type metaphor (Yang et al.). Neither reference uses the word histogram and neither reference shows a histogram or an equivalent thereof. Accordingly, the present invention is not made obvious in view of such a combination of

references. Further the motivation provided to combine these references is unclear, inconsistent with the claims, and ignores the express efforts made in Petelycky et al. to teach away from the use of a timeline.

Conclusion

For the above reasons, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse the rejection by the Examiner and mandate the allowance of Claims 1-17.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Schindler II', is written over a horizontal line.

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Enclosures

Appendix I- Claims on Appeal

1. A method for organizing visual digital objects and for selecting one or more of such visual digital objects for viewing, comprising the steps of:

a) developing a histogram timeline which identifies a number of visual digital objects organized according to predetermined time periods and providing thumbnail representations thereof;

b) selecting a portion of the histogram timeline for viewing such thumbnail representations of visual digital objects corresponding to such selected portion; and

c) determining if one or more of the viewed such thumbnail representations is of interest and then viewing the corresponding digital visual object(s).

2. A method for organizing digital multimedia objects and for selecting one or more digital multimedia objects for viewing or processing, comprising the steps of:

a) developing a histogram timeline which identifies a number of digital multimedia objects organized according to predetermined time periods and providing representations thereof;

b) selecting a portion of the histogram timeline for viewing representations of digital multimedia objects corresponding to such selected portion; and

c) determining if one or more of the viewed representations is of interest and then viewing or processing the corresponding digital multimedia object(s).

3. A method for organizing digital multimedia objects including visual and audio and for selecting one or more of digital multimedia objects for viewing or listening, comprising the steps of:

a) developing a histogram timeline which identifies a number of such objects organized according to predetermined time periods and providing thumbnail or iconic representations of the visual objects and text or iconic representations of the audio objects;

b) selecting a portion of the histogram timeline for viewing representations of such objects corresponding to such selected portion; and

c) determining if one or more of the viewed representations is of interest and then viewing or listening to the corresponding digital multimedia object(s).

4. The method of claim 3 wherein the representations correspond to a combination of visual and audio representations.

5. The method of claim 4 wherein the visual and audio objects include still and motion images.

6. A method for organizing digital multimedia objects and for selecting one or more of such objects for viewing or processing, comprising the steps of:

a) developing a histogram timeline which identifies a number of digital multimedia objects organized according to predetermined time periods and providing representations thereof;

b) selecting a portion of the histogram timeline for viewing representations of digital multimedia objects corresponding to such selected portion; and

c) repeating step b) until it is determined which representations are of interest and then viewing or processing the corresponding digital multimedia objects.

7. The method of claim 6 wherein the histogram timeline is constructed by:

i) accessing a plurality of digital multimedia objects stored together or in distributed fashion and forming a database;

ii) establishing the date of origination of each digital multimedia object from file header data or object metadata; and

iii) determining the number of digital multimedia objects in the database that originated at each date to form the histogram timeline.

8. The method of claim 6 further including:

iv) rendering the histogram timeline so the horizontal axis being time and the vertical axis is the number of digital multimedia objects, with

the timeline length running from the earliest to the latest dates of the digital multimedia objects in the database and the duration (width) of the histogram timeline bins being responsive to the resolution and size of the display.

9. The method of claim 6 further including the step of changing the histogram timeline to vary the earliest to latest dates.

10. The method of claim 6 wherein the representations are provided in a separate viewable area than the histogram timeline and include the thumbnail images and icons of the digital multimedia objects have a displayed date and time of origination.

11. The method of claim 6 wherein the thumbnail and iconic representations are grouped according to the events to which they relate.

12. A viewable histogram timeline, comprising:

- a) the histogram timeline which identifies a number of visual or multimedia digital objects organized according to predetermined time periods; and
- b) representations corresponding to portions of the histogram timeline which are actuatable by a viewer selecting such portions to view such representations.

13. The viewable histogram timeline of claim 12 wherein the timeline is arranged in vertical and horizontal axes so that the horizontal axis is time and the vertical axis is the number of objects, with the timeline length running from the earliest to the latest dates of the objects in a database.

14. The viewable histogram timeline of claim 12 wherein the representations are thumbnail images.

15. The viewable histogram timeline of claim 12 wherein the representations are provided in a separate viewable area than the histogram timeline and include the thumbnail images and icons of the digital multimedia objects have a displayed date and time of origination.

16. The viewable histogram timeline of claim 12 wherein the thumbnail and iconic representations are grouped according to the events to which they relate.

17. A computer storage medium having instructions stored therein for causing a computer to perform the method of claim 1.